

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARRY SMITH, JR. and ROSLYN
WOODARD SMITH, Individually and as
Administrators of THE ESTATE OF
HARRY SMITH, III

Plaintiffs,

Case No. 04-1254-GMS

$$V_n$$

JURY TRIAL DEMANDED

CITY OF WILMINGTON, et al.,

Defendants.

ANSWER OF DEFENDANT CITY OF WILMINGTON

1.-72. This defendant incorporates the responses of the individual defendants to paragraph 1 through 72, inclusive of the Amended Complaint.

73. This defendant incorporates its responses to paragraphs 1 through 72 of the Amended Complaint.

74. Because plaintiffs do not identify the “statutes” to which they refer, this defendant is without sufficient knowledge or information so as to be able to form a belief as to the truth of the averments contained in this paragraph of the Amended Complaint.

75. This allegation is a conclusion of law and no response is required. In the event that a response is required, these allegations are denied.

76. Denied.

77. Denied.

78. It is admitted that plaintiffs seek damages. Defendant denies they are entitled to damages. All other allegations, if any, are denied.

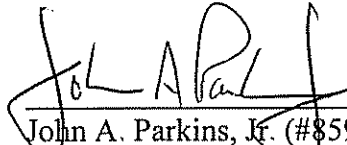
AFFIRMATIVE DEFENSES

This defendant incorporates the affirmative defenses set forth in the Answer of the individual defendants.

WHEREFORE, Defendants prays that the claims against it be denied with costs assessed against plaintiffs. In the event that the trier of fact determines that this defendant is at fault, this defendant prays that fault be apportioned between itself and Harry Smith, III.

OF COUNSEL:

Rosamaria Tassone
City of Wilmington Law Department
City/County Building, 9th Floor
800 N. French Street
Wilmington, Delaware 19801
302-576-2175



John A. Parkins, Jr. (#859)
Chad M. Shandler (#3796)
Richards, Layton & Finger
One Rodney Square
P. O. Box 551
Wilmington, Delaware 19899
302-651-7700
parkins@rlf.com
shandler@rlf.com
fineman@rlf.com
Attorneys for Defendants

Dated: October 13, 2005

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DISTRICT OF DELAWARE**

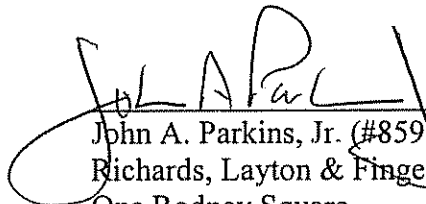
CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2005, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
Williams & Crosse
1214 King Street
Suite 300
Wilmington, DE 19801

I hereby certify that on October 13, 2005, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

Anne T. Sulton, Esquire
Post Office Box 2763
Olympia, WA 98507


John A. Parkins, Jr. (#859)
Richards, Layton & Finger P.A.
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899
(302) 651-7700
Parkins@rlf.com